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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,140	11/25/2003	Akira Takahashi	Q78533	4319
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23373 7590 02/13/2006

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/720,140	Applicant(s) TAKAHASHI, AKIRA	
Examiner Michael J. Kyle	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 November 2005.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-6 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wegner (U.S. Patent No. 6,082,158). Wegner discloses an actuator comprising a rotor (30), a lever (not numbered, shown in figure 13, portion supporting 37, connected to 36 and 38 via 39) swingable between first and second positions, and an engagement mechanism comprising a protrusion (37) and a guide mechanism (32, 33, 34) that makes the lever swing between the first and second position, and allows movement of the lever without turning the rotor. Wegner further discloses the guide mechanism to include a contact portion (32) that comes in contact with the protrusion (37), a guide portion (33) that guides the protrusion to the contact portion, and an allowing portion (34) that allows, when the rotor stops rotating, movement of the protrusion without turning the rotor, wherein the rotor always stops at the allowing portion regardless of whether the lever is at the first position or the second position. Examiner notes that an invention should be distinguished from the prior art in terms of structure rather than function (see MPEP 2114). Presently, the claimed “allowing portion” is claimed in terms of its function (i.e. what it allows to occur) rather than its structure. Because Wegner discloses a feature that is structurally identical to the claimed allowing portion, it considered to be able to perform the same function.

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4. With respect to claim 3, Wegner discloses the guide mechanism to include a first slide guide portion (non circular portion of 33) to slide the protrusion to the guide portion during rotation of the rotor in a first direction, and a second slide guide portion (circular portion of along the inner periphery of 33), that comes in contact with the protrusion to slide the protrusion to the movement support portion during rotation of the rotor in a second direction.

5. With respect to claims 4 and 5, Wegner discloses the contact portion (32) to have first and second contact portions (projecting portion of 32) extending in different directions. The first contact portion slides the lever to the second position during rotation of the rotor in a first direction. The second contact portion slides the lever to the first position during rotation of the rotor in the second direction.

6. With respect to claim 6, Wegner discloses the lever to be connected to a locking lever (36, 38) that witches between locked and unlocked positions of a door locking device.

Response to Arguments

7. Applicant's arguments filed November 28, 2005, have been fully considered but they are not persuasive. Applicant argues that Wegner does not disclose the allowing portion as claimed, or that movement of the lever without turning the rotor is accommodated. As noted in the rejection above, an invention should be distinguished from the prior art in terms of structure rather than function. The "allowing portion" is claimed as an element "that allows...". This is a functional limitation, with no claimed structure associated with it that can provide such a function. In that Wegner discloses all of the structural limitations claimed, it appears that Wegner is capable of performing the same functions.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk


ROBERT J. SANDY
PRIMARY EXAMINER